UBUSHINJACYAHA V. HABIMANA

[Rwanda URUKIKO RW'IKIRENGA – RS/INJUST/RP 00002/2019/SC (Nyirinkwaya, P.J, Hitiyaremye, J, Cyanzayire, J, Rukundakuvuga, J na Muhumuza, J.) 23 Ukuboza 2020]

Amategeko agenga imiburanishirize y'imanza – Ubujurire bwa kabiri – Impamvu z'ubujurire – Kugira ngo hemezwe ko umuburanyi yatsinzwe mu nkiko zombi zabanje ku mpamvu zimwe, harebwa icyaburanwaga n'imitekerereze ya buri rukiko mu kugaragaza impamvu zashingiweho, kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere arizo zagarutsweho mu bujurire kandi ko inkiko zombi zazishubijeho mu buryo bumwe. Impamvu zigomba gutandukanywa n'icyemezo cy'urukiko, kuko impamvu ariyo ishingirwaho mu kugaragariza no gusobanurira ababuranyi icyatumye urukiko rufata icyemezo.

Amategeko agenga imiburanishirize y'imanza – Gusubirisha urubanza ku mpamvu z'akarengane – Urubanza rushobora gusubirishwamo ku mpamvu z'akarengane ni urubanza rwafashe icyemezo kirenganya umuburanyi. Mu yandi magambo, urubanza rutakiriwe byafatwa ko rwarenganyije umuburanyi, iyo muri uko kutakirwa kwarwo ariho akarengane gashingiye. Ibyo bivuze ko iyo nta kosa urukiko rwakoze mu kutakira ikirego, urubanza rwajuririrwaga ruba rubaye itegeko bityo akaba ari narwo rufatwa nk'urwaciwe ku rwego rwa nyuma, bikanaruhesha uburenganzira bwo kuba rwasubirwamo ku mpamvu z'akarengane

Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Musanze, Ubushinjacyaha burega abitwa Habumuremyi, Niyonsenga, Habimana, Sentabire na Nzitonda icyaha cy'ubwicanyi bakoreye uwitwa Munyentwari. Urukiko rwaciye urubanza rwemeza ko Habumuremyi, Habimana waburanishijwe nk'uwatorotse ubutabera, Nzitonda na Sentabire bahamwa n'icyaha cy'ubwicanyi, rubahanisha igifungo cya burundu kuri buri wese

Nyuma yo gukatirwa n'Urukiko adahari, Habimana yasabye ko urubanza yaciriwe nk'uwatorotse ubutabera rusubirishwamo kuko rwaburanishijwe atabizi. Mu rubanza rwaciwe Urukiko rwemeje ko icyaha aregwa kimuhama, rumuhanisha igifungo cya burundu, anamburwa uburenganzira bwose umuntu afite mu gihugu, rwemeza ko urwo rubanza rusimbuye urubanza kuri Habimana gusa.

Habimana ntiyishimiye imikirize ajuririra Urukiko Rukuru avuga ko Urukiko rw'Isumbuye rwirengagije imvugo za Habumuremyi wavuze ko uwishe umuntu ashinjwa ari Sentabire, n'imvugo za Niyonsenga wavuze ko ibuye ryishe nyakwigendera ryatewe na Sentabire ndetse na raporo ya muganga ikaba ivuga ko nyakwindera ariyo ryamwishe. Urukiko Rukuru rwaciye urubanza rwemeza ko ubujurire bwe nta shingiro bufite, ko nta gihindutse ku rubanza rwajuririwe. Mu gufata iki cyemezo, Urukiko rwashingiye ku kuba abatangabuhamya bashinja Habimana Innocent batavuguruzanya mu buhamya bwabo nk'uko byavugwaga n'uwajuriye.

Habimana na none ntiyishimiye imikirize ajuririra Urukiko Rw'Ikirenga, nyuma yivugururwa ry'Inkiko urubanza rwoherezwa mu Rukiko rw'Ubujurire.

Habimana yajuririye avuga ko mvugo za Habumuremyi umushinja zivuguruzanya, ko hamwe avuga ko nyakwigendera yishwe na Sentabire ahandi akavuga ko mu bamwishe harimo Habimana, ko uwitwa Niyonsenga atarigeze amuvuga mu bishe nyakwigendera; ko Kuba ubuhamya bwa Nyiramugisha buvuguruzanya no Kuba Ubushinjacyaha bwaravuze ko yatorotse ubutabera kandi atari byo.

Uhagarariye ubushuinjacyaha yatanze inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire, busaba ko ubujurire bwa Habimana Innocent butakwakirwa ngo busuzumwe kubera ko yatsinzwe ku mpamvu zimwe mu nkiko zombi zabanje. Urukiko rwaciwe urbanza rwemeza ko inzitizi y'iburabubasha yatanzwe n'Ubushinjacyaha ifite ishingiro, rwemeza ko ubujurire bwa Habimana Innocent butari mu bubasha bwarwo. Ibyo Urukiko rwabishingiye ku kuba impamvu zashingiweho mu guhamya Habimana Innocent icyaha mu manza zaciwe n'Inkiko zombi ari zimwe.

Habimana yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urubanza rwaciwe n'Urukiko rw'Ubujurire rwasubirwamo ku mpamvu z'akarengane. Nyuma yo gusuzuma ikibazo yagejejweho, Perezida w'Urukiko rw'Ikirenga yemeje ko urubanza rusubirwamo. Habimana Innocent na Me Musabyimana umwunganira baburanye bavuga ko Urukiko rw'Ubujurire rwanze kwakira ubujurire bwe rudakurikije amategeko, bituma akomeza kurengana, ko basanga impamvu zirengagijwe ari kuba Habimana nta ruhare yagize mu kwica Munyentwali kuko uwamuteye ibuye ari Sentabire; ko icyo yakoze kwari ugukiranura impande zombi; ko abangamiwe n'inyito y'icyaha kuko asanga ibyakozwe bigize icyaha cyo gukubita no gukomeretsa byateye urupfu aho kuba ubwicanyi.

Ubushinjacyaha bwo buvuga ko busanga Urukiko rw'Ubujurire nta kosa rwakoze kuko rwagaragaje ko inzitizi y'iburabubasha yatanzwe n'Ubushinjacyaha ifite ishingiro, ko Habimana Innocent yatsinzwe mu nkiko zombi zabanje ku mpamvu zimwe.

Incamake y'Icyemezo: 1. Kugira ngo hemezwe ko umuburanyi yatsinzwe mu nkiko zombi zabanje ku mpamvu zimwe, harebwa icyaburanwaga n'imitekerereze ya buri rukiko mu kugaragaza impamvu zashingiweho, kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere arizo zagarutsweho mu bujurire kandi ko inkiko zombi zazishubijeho mu buryo bumwe. Impamvu zigomba gutandukanywa n'icyemezo cy'urukiko, kuko impamvu ariyo ishingirwaho mu kugaragariza no gusobanurira ababuranyi icyatumye urukiko rufata icyemezo, bityo Habimana Innocent akaba yaratsinzwe mu Nkiko zabanje zombie ku mpamvu zimwe ko rero nta karengane kagaragara mu rubanza yasabiye gusubirishamo ku mpamvu z'akarengane.

2. Urubanza rushobora gusubirishwamo ku mpamvu z'akarengane ni urubanza rwafashe icyemezo kirenganya umuburanyi. Mu yandi magambo, urubanza rutakiriwe byafatwa ko rwarenganyije umuburanyi, iyo muri uko kutakirwa kwarwo ariho akarengane gashingiye. Ibyo bivuze ko iyo nta kosa urukiko rwakoze mu kutakira ikirego, urubanza rwajuririrwaga ruba rubaye itegeko bityo akaba ari narwo rufatwa nk'urwaciwe ku rwego rwa nyuma, bikanaruhesha uburenganzira bwo kuba rwasubirwamo ku mpamvu z'akarengane. Ibyo rero Habimana asaba ko Urukiko rwasuzuma mu mizi urubanza rwciwe n'Urukiko Rukuru nta shingiro bifite ko rusanga nta kosa Urukiko rw'Ubujurire rwakoze rwanga kwakira unujurire bwa kabiri

Gusubirishamo urubanza ku mpamvu z'akarengane nta shingiro bifite;
Imikirize y'urubanza ku mpamvu z'akarengane ntihindutse.

Amategeko yashyimgiweho:
Itegeko N°30/2018 ryo ku wa 02/06/2018 rigena ububasha bw'Inkiko, ingingo ya 105 igika cya 2
Itegeko No 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga, ingingo ya 28 igika cya 5

Imanza zifashishijwe

RS/INJUST/RCOM 002/2020/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 25/9/2020, haburana Road Solution Pavement Products na Mail Co Ltd.

RS/REV/INJUST/CIV 0023/16/CS3, haburana Rutabayiro et al na Mukakabano Charlotte

Nta nyandiko z'abahanga zifashishijwe:

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Musanze, Ubushinjacyaha burega abitwa Habumuremyi Jean Baptiste alias Gahinja, Niyonsenga Jean Népomuscène, Habimana Emmanuel, Sentabire Cyprien na Nzitonda Emile icyaha cy'ubwicanyi bakoreye uwitwa Munyentwari Jean Damascène, icyaha Ubushinjacyaha buvuga ko bakoze ku wa 13/10/2013, mu gihe cya saa moya z'ijoro bari mu kabari k'uwitwa Mukandutiye Jeanne, muri centre ya SIRWA, mu Mudugudu wa SIRWA, Akagari ka Kagitega, Umurenge wa Cyanika. Muri ako kabari haje kuvuka amakimbirane hagati y'abahanyweraga bituma uwitwa Munyentwari Jean Damascène ahasiga ubuzima.

[2] Mu rubanza RP 0410/13/TGI/MUS rwaciwe ku wa 06/03/2014, Urukiko rwemeje ko Habumuremyi Jean Baptiste alias Gahinja, Habimana Innocent waburanishijwe nk'uwatorotse ubutabera, Nzitonda Emile na Sentabire Cyprien bahamwa n'icyaha cy'ubwicanyi, rubahanisha igifungo cya burundu kuri buri wese.

[3] Nyuma yo gukatirwa n'Urukiko Rwisumbuye rwa Musanze adahari, Habimana Innocent yasabye ko urubanza yaciriwe nk'uwatorotse ubutabera rusubirishwamo kuko rwaburanishijwe atabizi. Mu rubanza RP 0083/15/TGI/MUS rwaciwe ku wa 26/05/2015, Urukiko Rwisumbuye rwa Musanze rwemeje ko icyaha aregwa kimuhama, rumuhanisha igifungo cya burundu, anamburwa uburenganzira bwose umuntu afite mu gihugu, rwemeza ko urwo rubanza rusimbuye urubanza RP 0410/13/TGI/MUS rwaciwe ku wa 06/03/2014 kuri Habimana innocent gusa.

[4] Mu kumuhamya icyaha, Urukiko rwashingiye ku bimenyetso bikurikira:

- Imvugo za Habumuremyi Jean Baptiste alias Gahinja na Niyonsenga Jean Népomuscène bari mu bashinjwa kuba baragize uruhare mu rupfu rwa Munyentwari Jean Damascène;
- Imvugo z'abatangabuhamya bari bahari aribo Nyiramugisha Phoebe na Mukandutiye Jeanne bemeza ko mu bishe Munyentwari Jean Damascène harimo Habimana Innocent;
- Raporo ya muganga igaragaza ko Munyentwari Jean Damascène yapfuye azize igikomere cyo mu mutwe.

[5] Habimana Innocent yajuririye urwo rubanza mu Rukiko Rukuru, Urugereko rwa Musanze, ikirego cye cyandikwa kuri nimero RPA 0223/15/HC/MUS, avuga ko ajurijwe n'impamvu zikurikira :

- Kuba Urukiko rwarirengagije imvugo za Habumuremyi Jean Baptiste wavuze ko uwishe umuntu ashinjwa ari uwitwa Sentabire Cyprien;

- Kuba Urukiko rwarirengagije imvugo za Niyonsenga Jean Népomuscène uvuga ko uwateye ibuye ryishe nyakwigendera ari Sentabire Cyprien, kandi na raporo ya muganga ikaba ishimangira ko nyakwigendera ari cyo yazize.

[6] Ku wa 19/11/2015, Urukiko Rukuru, Urugereko rwa Musanze, rwaciye urubanza RPA 0223/15/HC/MUS, rwemeza ko ubujurire bwe nta shingiro bufite, ko nta gihindutse ku rubanza rwajuririwe. Mu gufata iki cyemezo, Urukiko rwashingiye ku kuba abatangabuhamya bashinja Habimana Innocent batavuguruzanya mu buhamya bwabo nk'uko byavugwaga n'uwajuriye.

[7] Habimana Innocent yajuririye urubanza RPA 0223/15/HC/MUS, mu Rukiko rw'Ikirenga ubujurire bwe burakirwa, nyuma y'ivugururwa ry'inzego z'ubucamanza n'amategeko agenga ububasha bw'inkiko, dosiye yoherezwa mu Rukiko rw'Ubujurire ihabwa nimero RPAA 00197/2018/CA. Muri urwo rubanza Habimana Innocent avuga ko yajurijwe n'impamvu zikurikira :

- Kuba imvugo za Habumuremyi Jean Baptiste alias GAHINJA umushinja zivuguruzanya, ko hamwe avuga ko nyakwigendera yishwe na Sentabire Cyprien ahandi akavuga ko mu bamwishe harimo Habimana Innocent;
- Kuba uwitwa Niyonsenga Jean Népomuscène atarigeze amuvuga mu bishe nyakwigendera;
- Kuba ubuhamya bwa Nyiramugisha Phoebe buvuguruzanya;
- Kuba Ubushinjacyaha bwaravuze ko yatorotse ubutabera kandi atari byo.

[8] Ubushinjacyaha bwo bwatanze inzitizi y'iburabubasha bw'Urukiko rw'Ubujurire, busaba ko ubujurire bwa Habimana Innocent butakwakirwa ngo busuzumwe kubera ko yatsinzwe ku mpamvu zimwe mu nkiko zombi zabanje.

[9] Urukiko rw'Ubujurire rwaciye urubanza RPAA 00197/2018/CA ku wa 24/10/2018, rwemeza ko inzitizi y'iburabubasha yatanzwe n'Ubushinjacyaha ifite ishingiro, rwemeza ko ubujurire bwa Habimana Innocent butari mu bubasha bwarwo. Ibyo Urukiko rwabishingiye ku kuba impamvu zashingiweho mu guhamya Habimana Innocent icyaha mu manza zaciwe n'Inkiko zombi (ni ukuvuga Urukiko Rwisumbuye rwa Musanze n'Urukiko Rukuru, Urugereko rwa Musanze) ari zimwe, kuko izo mpamvu ari imvugo z'abatangabuhamya Habumuremyi Jean Baptiste alias Gahinja, Niyonsenga Jean Népomuscène, nyiramugisha Phoebe na Mukandutiye Jeanne, basobanuye uruhare rwa Habimana Innocent mu rupfu rwa Munyentwari Jean Damascène.

[10] Ku wa 09/11/2018, Habimana Innocent yandikiye Perezida w'Urukiko rw'Ikirenga asaba ko urubanza rwaciwe n'Urukiko rw'Ubujurire rwasubirwamo ku mpamvu z'akarengane. Nyuma yo gusuzuma ikibazo yagejejweho, Perezida w'Urukiko rw'Ikirenga yemeje ko urubanza rusubirwamo, rwandikwa mu bitabo byabugenewe kuri RS/INJUST/RC 00002/2019/SC.

[11] Urubanza rwaburanishijwe mu ruhame ku wa 03/12/2020 mu buryo bwa video conference, Habimana Innocent ari muri Gereza ya Rubavu aho afungiye, Me Musabyimana Aphrodis umwunganira ari mu rukiko naho Ubushinjacyaha buhagarariwe na Munyaneza Nkwaya Eric,

[12] Habimana Innocent na Me Musabyimana Aphrodis umwunganira baburanye bavuga ko Urukiko rw'Ubujurire rwanze kwakira ubujurire bwe rudakurikije amategeko, bituma akomeza kurengana, ko basanga impamvu zirengagijwe ari izi zikurikira:

- Kuba Habimana nta ruhare yagize mu kwica Munyentwali Jean Damascène kuko uwamuteye ibuye ari Sentabire Cyprien;
- Kuba icyo yakoze kwari ugukiranura impande zombi;
- Kuba abangamiwe n'inyito y'icyaha kuko asanga ibyakozwe bigize icyaha cyo gukubita no gukomeretsa byateye urupfu biteganyijwe kandi bigahanishwa ingingo ya 151 y'Itegeko N° 01/2012 ryo ku wa 02/05/2012 rishyiraho igitabo cy'amategeko ahana ryariho icyaha gikorwa aho kuba ubwicanyi.

[13] Uhagarariye Ubushinjacyaha avuga ko kuba Habimana Innocent yaratsinzwe n'impamvu zimwe mu nkiko zombi, bitari gushoboka ko ubujurire bwe bwa kabiri bwakirwa mu Rukiko rw'Ubujurire.

[14] Uru Rukiko rusanga ikibazo cyabanza gusuzumwa ari ukumenya niba hari ikosa Urukiko rw'Ubujurire rwakoze rwanga kwakira ubujurire bwa kabiri bwa Habimana Innocent ruvuga ko yatsinzwe ku mpamvu zimwe mu nkiko zombi zabanje.

II. IKIBAZO KIGIZE URUBANZA N'ISESENGURA RYACYO

Kumenya niba hari ikosa Urukiko rw'Ubujurire rwakoze mu kwanga kwakira ubujurire bwa kabiri bwa Habimana Innocent

[15] Habimana Innocent avuga ko Urukiko rw'Ubujurire rwemeje ko yatsinzwe ku mpamvu zimwe kandi atari byo, akaba ariyo mpamvu yanditse asaba ko akarengane ke kasuzumwa.

[16] Me Musabyimana Aphrodis umwunganira avuga ko iyi ngingo ntacyo yayivuzeho mu mwanzuro we kuko asanga atari ngombwa kugaruka ku bijyanye n'iyakirwa ry'ikirego kuko iyo Perezida w'Urukiko rw'Ikirenga yemeje ko akarengane gasuzumwa urubanza ruburanishwa bundi bushya.

[17] Urukiko rwasobanuriye Me Musabyimana Aphrodis ko urubanza uwo yunganira yazanye mu karengane ari urubanza rwaciwe n'Urukiko rw'Ubujurire kandi ko urwo Urukiko rwanze kwakira ubujurire bwe hashingiwe ku kuba yaratsinzwe kabiri ku mpamvu zimwe; abajijwe niba akarengane baregera gashingiye kuri urwo rubanza, Me Musabyimana Aphrodis avuga ko akarengane baregera kari mu rubanza rwaciwe n'Urukiko rw'Ubujurire kandi ko kabonywe kakanemezwa n'Urukiko rw'Ikirenga, akaba asanga rutakwivuguruza.

[18] Me Musabyimana Aphrodis akomeza avuga ko ikigaragaza akarengane muri uru rubanza ari uko inyito y'icyaha itigeze isuzumwa, akaba asanga byari kwitwa icyaha cyo gukubita no gukomeretsa byateye urupfu, aho kuba icyaha cy'ubwicanyi.

[19] Ubushinjacyaha bwo buvuga ko busanga Urukiko rw'Ubujurire nta kosa rwakoze kuko rwagaragaje ko inzitizi y'iburabubasha yatanzwe n'Ubushinjacyaha ifite ishingiro, ko Habimana Innocent yatsinzwe mu nkiko zombi zabanje ku mpamvu zimwe, bityo ko hashingiwe ku ngingo ya 28, igika cya 5, y'Itegeko Ngenga nº 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere,

imikorere n'ububasha by'Urukiko rw'Ikirenga, ryakoreshwaga igihe yajuriraga[1], avuga ko uru Rukiko rudakwiye kwinjira mu mizi y'uru rubanza, kuko urubanza rusabirwa gusubirwamo asanga nta nenge rufite.

UKO URUKIKO RUBIBONA

[20] Ingingo ya 28, igika cya 5, y'Itegeko No 03/2012/OL ryo ku wa 13/06/2012 rigena imiterere, imikorere n'ububasha by'Urukiko rw'Ikirenga ryakurikizwaga igihe Habimana Innocent yajuriraga, ryateganyaga ko urubanza umuburanyi yatsinzwe ku rwego rwa mbere n'urwa kabiri ku mpamvu zimwe, rudashobora kujuririrwa mu Rukiko rw'Ikirenga.

[21] Nkuko byasobanuwe mu zindi manza zaciwe n'Urukiko rw'Ikirenga, kugira ngo hemezwe ko umuburanyi yatsinzwe mu nkiko zombi zabanje ku mpamvu zimwe, harebwa icyaburanwaga n'imitekerereze ya buri rukiko (*raisonnement juridique*) mu kugaragaza impamvu zashingiweho, kugira ngo rugere ku cyemezo rwafashe, hitawe ku kureba niba ingingo zaburanywe mbere arizo zagarutsweho mu bujurire kandi ko inkiko zombi zazishubijeho mu buryo bumwe. Impamvu zigomba gutandukanywa n'icyemezo cy'urukiko, kuko impamvu ariyo ishingirwaho mu kugaragariza no gusobanurira ababuranyi icyatumye urukiko rufata icyemezo[2].

[22] Muri uru rubanza, hararebwa niba Urukiko rw'Ubujurire rwarasuzumye ko impamvu zatumye Habimana Innocent atsindwa mu Rukiko Rwisumbuye rwa Musanze no mu Rukiko Rukuru, Urugereko rwa Musanze ari zimwe, hitawe ku cyaha yarezwe no ku bimenyetso byatumye kimuhama mu nkiko zombi.

[23] Dosiye y'urubanza igaragaza ko mu rubanza RP 0083/15/TGI/MUS rwaciwe n'Urukiko Rwisumbuye rwa Musanze, mu guhamya Habimana Innocent icyaha Urukiko rwashingiye ku bimenyetso bigizwe n'imvugo z'abatangabuhamya barimo Habumuremyi Jean-Baptiste alias Gahinja na Niyonsenga Jean Nepomuscène bashinjwa hamwe na Habimana Innocent, mu gihe cy'iperereza, no ku mvugo z'abandi batangabuhamya barimo abitwa Nyiramugisha Phoebe na Mukandutiye Jeanne.

[24] Mu rubanza rwaciwe n'Urukiko Rukuru, Urugereko rwa Musanze, mu rwego rw'Ubujurire mu gika cya 21, 22, n'icya 25, Urukiko rwasanze Habumuremyi Jean-Baptiste, Niyonsenga Jean Népomuscène na Habimana Emmanuel bashinja Habimana Innocent kugira uruhare mu rupfu rwa Munyentwari Jean Damascène kuko bari mu bamukubise, ruvuga ko bativuguruza kandi ko ubuhamya bwabo bwuzuzwa n'ibivugwa na Nyiramugisha Phoebe na Mukandutiye Jeanne, bityo ko bufite ishingiro.

[25] Urukiko rusanga mu gusuzuma ubujurire bwa Habimana Innocent, Urukiko rw'Ubujurire, rushingiye ku ngingo ya 105, igika cya 2, y'Itegeko rigena ububasha bw'Inkiko rwarasanze ibyakozwe byose mu rubanza bigumana agaciro kabyo, isuzuma ry'ako gaciro rigakorwa hakurikijwe ibitegenywa n'Itegeko ryakoreshwaga ubwo uregwa yajuriraga, bityo agaciro k'inzitizi yatanzwe n'Ubushinjacyaha kakaba kagomba gusuzumwa hakurikijwe itegeko No 03/2012/OL ryo ku wa 13/06/2012 ryavuzwe haruguru ryakoreshwaga ubwo Habimana Innocent yatangaga ubujurire bwe mu Rukiko rw'Ikirenga.

---

[1] Iyo ngingo igira iti "Icyakora, urubanza umuburanyi yatsinzwe ku rwego rwa mbere n'urwa kabiri ku mpamvu zimwe, ntirushobora kujuririrwa mu Rukiko rw'Ikirenga"

[2]Reba urubanza n° RS/INJUST/RCOM 002/2020/SC rwaciwe n'Urukiko rw'Ikirenga ku wa 25/9/2020, haburana Road Solution Pavement Products na Mail Co Ltd, igika cya 24

[26] Urukiko rw'Ikirenga rusanga nk'uko bigaragara mu gika cya 16, n'icya 17, by'urubanza rusabirwa gusubirwamo ku mpamvu z'akarengane, mu gusuzuma inzitizi yo kutakira ubujurire bwa 2 bwa Habimana innocent, Urukiko rw'Ubujurire rwarasesenguye imanza zaciwe n'Urukiko Rwisumbuye rwa Musanze hamwe n'Urukiko Rukuru, Urugereko rwa Musanze, rusanga impamvu zashingiweho mu guhamya Habimana Innocent icyaha cy'ubwicanyi ari ibimenyetso bigizwe n'imvugo z'abatangabuhamya Habumuremyi Jean Baptiste alias Gahinja, Niyonsenga Jean Népomuscène, Habimana Emmanuel, Nyiramugisha Phoebe na Mukandutiye Jeanne, rusanga impamvu zashingiweho n'inkiko zombi ari zimwe, rwemeza ko ubujurire bwe butari buri mu bubasha bwarwo.

[27] Urukiko rurasanga impamvu Habimana Innocent yatsinzwe mu nkiko zombi ari uko atashoboye kuvuguruza ibimenyetso byatanzwe n'Ubushinjacyaha, bigizwe n'imvugo z'abatangabuhamya bavuzwe haruguru, bemeje ko yari mu bishe Munyentwari Jean Damascène kandi ubwo buhamya akaba aribwo bwashingiweho mu nkiko zombi;ibyo bikaba bigaragaza ko nta kosa Urukiko rw'Ubujurire rwakoze mu kutakira ubujurire bwa kabiri bwa Habimana Innocent.

[28] Urukiko rusanga ibyo Habimana Innocent na Me Musabyimana Aphrodis umwunganira bavuga ubu ko Urukiko rw'Ubujurire rwirengagije gusuzuma ibyerekeranye n'inyito y'icyaha hamwe n'uruhare rwa Habimana Innocent mu cyaha aregwa nta shingiro bifite, kuko Urukiko rutakwinjira mu mizi y'urubanza rutabanje gusuzuma inzitizi ijyanye n'ububasha bwarwo ku kirego rwashyikirijwe, kandi mu kuyisuzuma rukaba rwarasanze ifite ishingiro, bivuze ko nta bubasha rwari rufite bwo gusuzuma izindi ngingo.

[29] Naho ku byerekeye ibivugwa na Me Musabyimana Aphrodis ko mu gihe Perezida w'Urukiko rw'Ikirenga yemeje ko urubanza rusubirwamo ntacyabuza Urukiko kurwakira ngo ruruburanishe mu mizi ngo kuko asanga Urukiko rutakwivuguruza, ashaka kumvikanisha ko rugomba gusuzuma ibyaburanwe mu Rukiko Rukuru, uru rukiko rusanga nta shingiro bifite kuko nk'uko rwabitanzeho umurongo mu rubanza RS/REV/INJUST/CIV 0023/16/CS[3], haburana Rutabayiro et al na Mukakabano Charlotte, rudashobora kubisuzuma, igihe rusanze nta kosa Urukiko rw'Ubujurire rwakoze rwanga kwakira ubujurire bwa kabiri. Urukiko rusanga ahubwo ikiba kigomba gusuzumwa mu rubanza nk'uru ari imikirize y'urubanza rwaciwe n'Urukiko rw'Ubujurire kuko arirwo ruba rwaregewe nk'ururimo akarengane, bityo mu gusuzuma uburyo rwaciwe bikaba ari ko gusuzuma imizi y'urubanza rusabirwa gusubirwamo ku mpamvu z'akarengane.

[30] Hashingiwe ku ngingo z'amategeko no ku bisobanuro byatanzwe muri uru rubanza, Urukiko rurasanga Urukiko rw'Ubujurire nta kosa rwakoze rwanga kwakira ubujurire bwa kabiri bwa Habimana innocent.

III. ICYEMEZO CY'URUKIKO

[3] Muri urwo rubanza Urukiko rwemeje ko "urubanza rushobora gusubirishwamo ku mpamvu z'akarengane ari urubanza rwafashe icyemezo kirenganya umuburanyi. Mu yandi magambo, urubanza rutakiriwe byafatwa ko rwarenganyije umuburanyi, iyo muri uko kutakirwa kwarwo ariho akarengane gashingiye. Ibyo bivuze ko iyo nta kosa urukiko rwakoze mu kutakira ikirego, urubanza rwajuririrwaga ruba rubaye itegeko bityo akaba ari narwo rufatwa nk'urwaciwe ku rwego rwa nyuma, bikanaruhesha uburenganzira bwo kuba rwasubirwamo ku mpamvu z'akarengane

[31] Rwemeje ko ikirego cya Habimana Innocent gisaba gusubirishamo urubanza Nº RPAA 0019/2018/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 24/10/2018, nta shingiro gifite;

[32] Rwemeje ko nta karengane kari mu rubanza RPAA0019/2018/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 24/10/2018;

[33] Rwemeje ko urubanza RPAA 0019/2018/CA rwaciwe n'Urukiko rw'Ubujurire ku wa 24/10/2018 rudahindutse mu ngingo zarwo zose;